

16SL-CC04055



IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI

RODERICK SMITH,)	
)	
Plaintiff,)	Case No.
)	
vs.)	Division No.
)	
AMERICAN ELECTRIC & DATA)	
INC.)	
Served at: Thomas M. Prade)	
112 St. Charles Street)	
New Melle, MO 63365)	
)	
Defendant.)	

PETITION

COUNT I - PERSONAL INJURY - OTHER

COMES NOW Plaintiff, RODERICK SMITH by and through his attorneys, Alvin A. Wolff, Jr. & Associates, and for his Petition against Defendant AMERICAN ELECTRIC & DATA, INC., states the following:

1. Plaintiff RODERICK SMITH is a resident of Texas.
2. That at all times mentioned herein, Defendant AMERICAN ELECTRIC & DATA, INC. is a Missouri corporation in good standing doing business in St. Louis County, State of Missouri. At the time of the fall, Defendant was an employer of employees working an elevator shaft where employees of other subcontractors were working.
3. The tortious acts claimed occurred in St. Louis County, State of Missouri on January 29, 2016.

4. On the above date, Plaintiff was working at a job location in Pagedale at or about 2016 Vetter Place, when he fell down an elevator shaft injuring his back, left arm, right leg, right elbow and left hip.

5. Plaintiff's fall was due to the careless and negligence of Defendant's employees to wit:

- a. Failure to properly light the area of the elevator shaft;
- b. Failure to properly warn of an elevator shaft; and
- c. Failure to properly barricade the elevator shaft.

6. Plaintiff's injuries are permanent, painful and progressive. Plaintiff has lost wages in an amount not presently ascertainable and his ability to compete in the open labor market has been hampered. Plaintiff will incur future medical bills in an amount not presently ascertainable.

WHEREFORE, Plaintiff prays for judgment against Defendant in a sum in excess of Twenty Five Thousand Dollars (\$25,000.00), together with his costs herein expended and prejudgment and post-judgment interest as provided by law.

COUNT II - NEGLIGENCE PER SE

COMES NOW Plaintiff, RODERICK SMITH and for his Negligence Per Se Count, states the following:

7. Plaintiff restates and realleges paragraphs 1 through 6 in Count I above.

8. At the time Plaintiff was injured, there was an OSHA standard, Section 1910.23(a), in full force and effect which requires that all floor openings have a standard railing, or shall be constantly attended by someone. OSHA requires employers to provide a safe work place and are required to keep their work place free of serious recognized hazards.

9. At the time Plaintiff was injured, there was also an American National Standard (ANSI), Section 7.4, in full force and effect which requires enclosing elevator shaft openings during construction activity.

10. Plaintiff may proceed on a negligence per se claim if the following four elements are met: (1) there was, in fact, a violation of the standards; (2) the injured plaintiff was a member of the class of persons intended to be protected by the standards; (3) the injury complained of was of the kind the standards were designed to prevent; and (4) the violation of the standards were the proximate cause of the injury.

11. Plaintiff states:

- a. That he was injured due to the violation of the OSHA standards;
- b. That he is a member of the class of persons intended to be protected by the statute since he is an injured party working around an unprotected elevator shaft at the time of the fall;
- c. Plaintiff's injuries are the kind the standards were designed to prevent, since the standards are designed to prevent falls and injuries; and
- d. The violation of the standards was the proximate cause of Plaintiff's injuries since had the shaft been protected, Plaintiff would not have fallen and been injured.

WHEREFORE, Plaintiff prays for judgment against Defendant in a sum in excess of Twenty Five Thousand Dollars (\$25,000.00), together with his costs herein expended and prejudgment and post-judgment interest as provided by law.

ALVIN WOLFF, JR. & ASSOCIATES

BY: /s/Alvin A. Wolff, Jr.
Alvin A. Wolff Jr. #27800
Alexander A. Wolff #64247
1034 S. Brentwood Blvd, Suite 1900
Saint Louis, MO 63117
(314) 241-2500
(314) 584-4105 Direct
(314) 241-2215 Fax
alvinwolff@gmail.com
alex@wallachwolff.com
ATTORNEYS FOR PLAINTIFF

16SL-CC04055

In the
CIRCUIT COURT
Of St. Louis County, Missouri



For File Stamp Only

RODERICK SMITH
Plaintiff/Petitioner

November 2, 2016
Date

VS.

AMERICAN ELECTRIC & DATA INC.
Defendant/Respondent

Case Number

Division

REQUEST FOR APPOINTMENT OF PROCESS SERVER

Comes now Plaintiff RODERICK SMITH, pursuant
Requesting Party

to Local Rule 28, and at his/her/its own risk requests the appointment of the Circuit Clerk of
Dennis Dahlberg, Dahlberg & Associates 1107 Chatelet Dr., St. Louis, MO 63135 (314) 524-7835
 Name of Process Server Address Telephone

Name of Process Server	Address or in the Alternative	Telephone
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Name of Process Server	Address or in the Alternative	Telephone
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Natural person(s) of lawful age to serve the summons and petition in this cause on the below named parties. This appointment as special process server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVE:
AMERICAN ELECTRIC & DATA, INC, c/o Thomas Prade
 Name 112 St. Charles Street
 Address New Melle, MO 63365
 City/State/Zip

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip

Appointed as requested:
JOAN M. GILMER, Circuit Clerk

By _____
Deputy Clerk

Date

/s/Alvin A. Wolff, Jr.
Attorney/Plaintiff/Petitioner
27800
Bar No.
1034 S. Brentwood, Ste 1900 (63117)
Address
(314) 241-2500 (314) 241-2215
Phone No. Fax No.

Local Rule 28. SPECIAL PROCESS SERVERS

(1) Any Judge may appoint a Special Process Server in writing in accordance with the law and at the risk and expense of the requesting party except no special process server shall be appointed to serve a garnishment.

This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

(2) The Circuit Clerk may appoint a natural person other than the Sheriff to serve process in any cause in accordance with this subsection;

(A) Appointments may list more than one server as alternates.

(B) The appointment of a person other than the Sheriff to serve process shall be made at the risk and expense of the requesting party.

(C) Any person of lawful age, other than the Sheriff, appointed to serve process shall be a natural person and not a corporation or other business association.

(D) No person, other than the Sheriff, shall be appointed to serve any order, writ or other process which requires any levy, seizure, sequestration, garnishment, or other taking.

(E) Requests for appointment of a person other than the Sheriff to serve process shall be made on a "Request for Appointment of Process Server" electronic form, which may be found on the Court's Web Site, <http://www.stlouisco.com>. (LawandPublicSafety/Circuit/Forms).

(F) This appointment as Special Process Server does not include the authorization to carry a concealed weapon in the performance thereof.

SERVICE RETURN

Any service by the St. Louis County Sheriff's Office shall be scanned into the courts case management system. Any service by another Sheriff or a Special Process Server or any other person authorized to serve process shall return to the attorney or party who sought service and the attorney shall file the return electronically to the Circuit Clerk.

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In the
CIRCUIT COURT
 Of St. Louis County, Missouri



For File Stamp Only

RODERICK SMITH

Plaintiff/Petitioner

vs.

AMERICAN ELECTRIC & DATA INC.

Defendant/Respondent

November 2, 2016

Date

Case Number

Division

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AMERICAN ELECTRIC & DATA, INC, c/o Thomas Prade

Name

112 St. Charles Street

Address

New Melle, MO 63365

City/State/Zip

SERVE:

Name

Address

City/State/Zip

Appointed as requested:

JOAN M. GILMER, Circuit ClerkBy /s/Adam Dockery

Deputy Clerk

11/3/16

Date

SERVE:

Name

Address

City/State/Zip

SERVE:

Name

Address

City/State/Zip

/s/Alvin A. Wolff, Jr.

Attorney/Plaintiff/Petitioner

27800

Bar No.

1034 S. Brentwood, Ste 1900 (63117)

Address

(314) 241-2500

Phone No.

(314) 241-2215

Fax No.

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16SL-CC04055

Electronically Filed - St Louis County - November 03, 2016 - 02:22 PM

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CASE INFORMATION

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DATE: 11/3/16
COURT LOCATION: St Louis County - Circuit Court
CASE TYPE: TF - Personal Injury-Other
CASE STYLE: RODERICK SMITH V AMERICAN ELECTRIC & DATA, INC.

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PARTY INFORMATION

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PARTY TYPE: PLT - Plaintiff
SSN: 433-13-8359
FIRST NAME: RODERICK
MIDDLE NAME: R.
LAST NAME: SMITH
SUFFIX:
GENDER: MALE
DOB: 04/25/1958
E-MAIL:
PHONE: (314) 241-2500
ADDRESS:
728 BUFFALO SPRINGS DRIVE
FORT WORTH, TX 76140
FILER: 27800 - ALVIN A. WOLFF Jr.

PARTY TYPE: DFT - Defendant
EIN:
ORGANIZATION: AMERICAN ELECTRIC & DATA, INC.
E-MAIL:
PHONE:
ADDRESS:
C/O THOMAS PRADE
112 ST. CHARLES STREET
NEW MELLE, MO 63365

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SUBMITTER INFORMATION

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SUBMITTED BY: 27800 - Alvin A. Wolff Jr.
PHONE: (314) 241-2500 EXT: 1009
E-MAIL: beth@wallachwolff.com
ADDRESS:
STE 1900
1034 S. BRENTWOOD
ST. LOUIS, MO 63117



IN THE 21ST JUDICIAL CIRCUIT COURT, ST. LOUIS COUNTY, MISSOURI

Judge or Division: NANCY M WATKINS	Case Number: 16SL-CC04055
Plaintiff/Petitioner: RODERICK SMITH	Plaintiff's/Petitioner's Attorney/Address ALVIN A WOLFF JR SUITE 1900 1034 SOUTH BRENTWOOD BOULEVARD SAINT LOUIS, MO 63117
Defendant/Respondent: AMERICAN ELECTRIC & DATA, INC.	Court Address: ST LOUIS COUNTY COURT BUILDING 105 SOUTH CENTRAL AVENUE CLAYTON, MO 63105
Nature of Suit: CC Pers Injury-Other	(Date File Stamp)

Summons in Civil Case

The State of Missouri to: AMERICAN ELECTRIC & DATA, INC.

Alias:

C/O THOMAS M PRADE
112 ST. CHARLES STREET
NEW MELLE, MO 63365

COURT SEAL OF



ST. LOUIS COUNTY

You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for Plaintiff/Petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.

SPECIAL NEEDS: If you have special needs addressed by the Americans With Disabilities Act, please notify the Office of the Circuit Clerk at 314-615-8029, FAX 314-615-8739 or TTY at 314-615-4567, at least three business days in advance of the court proceeding.

03-NOV-2016

Date

Further Information:

AD

Clerk

Sheriff's or Server's Return

Note to serving officer: Summons should be returned to the court within thirty days after the date of issue.

I certify that I have served the above summons by: (check one)

- ☐ delivering a copy of the summons and a copy of the petition to the Defendant/Respondent.
- ☐ leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the Defendant/Respondent with _____ a person of the Defendant's/Respondent's family over the age of 15 years.
- ☐ (for service on a corporation) delivering a copy of the summons and a copy of the petition to _____ (name) _____ (title).

☐ other _____

Served at _____ (address)

in _____ (County/City of St. Louis), MO, on _____ (date) at _____ (time).

Printed Name of Sheriff or Server

Signature of Sheriff or Server

Must be sworn before a notary public if not served by an authorized officer:

(Seal)

Subscribed and sworn to before me on _____ (date).

My commission expires: _____ Date

Notary Public

Sheriff's Fees, if applicable

Summons \$ _____

Non Est \$ _____

Sheriff's Deputy Salary

Supplemental Surcharge \$ 10.00

Mileage \$ _____ (_____ miles @ \$._____ per mile)

Total \$ _____

A copy of the summons and a copy of the petition must be served on each Defendant/Respondent. For methods of service on all classes of suits, see Supreme Court Rule 54.

THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

Twenty First Judicial Circuit

NOTICE OF ALTERNATIVE DISPUTE RESOLUTION SERVICES

Purpose of Notice

As a party to a lawsuit in this court, you have the right to have a judge or jury decide your case. However, most lawsuits are settled by the parties before a trial takes place. This is often true even when the parties initially believe that settlement is not possible. A settlement reduces the expense and inconvenience of litigation. It also eliminates any uncertainty about the results of a trial.

Alternative dispute resolution services and procedures are available that may help the parties settle their lawsuit faster and at less cost. Often such services are most effective in reducing costs if used early in the course of a lawsuit. Your attorney can aid you in deciding whether and when such services would be helpful in your case.

Your Rights and Obligations in Court Are Not Affected By This Notice

You may decide to use an alternative dispute resolution procedure if the other parties to your case agree to do so. In some circumstances, a judge of this court may refer your case to an alternative dispute resolution procedure described below. These procedures are not a substitute for the services of a lawyer and consultation with a lawyer is recommended. Because you are a party to a lawsuit, you have obligations and deadlines which must be followed whether you use an alternative dispute resolution procedure or not. **IF YOU HAVE BEEN SERVED WITH A PETITION, YOU MUST FILE A RESPONSE ON TIME TO AVOID THE RISK OF DEFAULT JUDGMENT, WHETHER OR NOT YOU CHOOSE TO PURSUE AN ALTERNATIVE DISPUTE RESOLUTION PROCEDURE.**

Alternative Dispute Resolution Procedures

There are several procedures designed to help parties settle lawsuits. Most of these procedures involve the services of a neutral third party, often referred to as the "neutral," who is trained in dispute resolution and is not partial to any party. The services are provided by individuals and organizations who may charge a fee for this help. Some of the recognized alternative dispute resolutions procedures are:

(1) Advisory Arbitration: A procedure in which a neutral person or persons (typically one person or a panel of three persons) hears both sides and decides the case. The arbitrator's decision is not binding and simply serves to guide the parties in trying to settle their lawsuit. An arbitration is typically less formal than a trial, is usually shorter, and may be conducted in a private setting at a time mutually agreeable to the parties. The parties, by agreement, may select the arbitrator(s) and determine the rules under which the arbitration will be conducted.

(2) Mediation: A process in which a neutral third party facilitates communication between the parties to promote settlement. An effective mediator may offer solutions that have not been considered by the parties or their lawyers. A mediator may not impose his or her own judgment on the issues for that of the parties.

(3) Early Neutral Evaluation (“ENE”): A process designed to bring the parties to the litigation and their counsel together in the early pretrial period to present case summaries before and receive a non-binding assessment from an experienced neutral evaluator. The objective is to promote early and meaningful communication concerning disputes, enabling parties to plan their cases effectively and assess realistically the relative strengths and weaknesses of their positions. While this confidential environment provides an opportunity to negotiate a resolution, immediate settlement is not the primary purpose of this process.

(4) Mini-Trial: A process in which each party and their counsel present their case before a selected representative for each party and a neutral third party, to define the issues and develop a basis for realistic settlement negotiations. The neutral third party may issue an advisory opinion regarding the merits of the case. The advisory opinion is not binding.

(5) Summary Jury Trial: A summary jury trial is a non binding, informal settlement process in which jurors hear abbreviated case presentations. A judge or neutral presides over the hearing, but there are no witnesses and the rules of evidence are relaxed. After the “trial”, the jurors retire to deliberate and then deliver an advisory verdict. The verdict then becomes the starting point for settlement negotiations among the parties.

Selecting an Alternative Dispute Resolution Procedure and a Neutral

If the parties agree to use an alternative dispute resolution procedure, they must decide what type of procedure to use and the identity of the neutral. As a public service, the St. Louis County Circuit Clerk maintains a list of persons who are available to serve as neutrals. The list contains the names of individuals who have met qualifications established by the Missouri Supreme Court and have asked to be on the list. The Circuit Clerk also has Neutral Qualifications Forms on file. These forms have been submitted by the neutrals on the list and provide information on their background and expertise. They also indicate the types of alternative dispute resolution services each neutral provides.

A copy of the list may be obtained by request in person and in writing to: Circuit Clerk, Office of Dispute Resolution Services, 7900 Carondelet Avenue, 5th Floor, Clayton, Missouri 63105. The Neutral Qualifications Forms will also be made available for inspection upon request to the Circuit Clerk.

The List and Neutral Qualification Forms are provided only as a convenience to the parties in selecting a neutral. The court cannot advise you on legal matters and can only provide you with the List and Forms. You should ask your lawyer for further information.

I certify and attest that the above is a true copy of the original record of the Court in case number 16SL-C-04055 as it appears on file in my office.



Issued

12/16/16

JOAN M. GILMER, Circuit Clerk
St. Louis County Circuit Court

By

Mary Mason
Deputy Clerk

I hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the Court.

[Signature]

Clerk of Court

Attest: _____
Deputy Clerk of Court

[Signature]

Deputy Clerk of Court

